

ORIGINAL
FILE

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APR 14 1992

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

Federal Communications Commission
Office of the Secretary

In re Applications of) MM DOCKET NO. 92-6
)
NORMANDY BROADCASTING CORP.) File No. BRH-910129UR
)
For Renewal of License of)
Station WYLR(FM) (95.9 MHz),)
Glens Falls, New York)
)
and)
)
LAWRENCE N. BRANDT) File No. BPH-910430MB
)
For a Construction Permit for)
a New FM Station on 95.9 MHz)
at Glens Falls, New York)

To: Administrative Law Judge
Richard L. Sippel

**MASS MEDIA BUREAU'S COMMENTS ON
SUPPLEMENT TO PETITION TO MODIFY AND ENLARGE ISSUES**

1. On March 30, 1992, Lawrence N. Brandt ("Brandt") filed a Supplement to its Petition to Modify and Enlarge Issues.¹ Notwithstanding Brandt's supplement, the Mass Media Bureau opposes addition of the requested issue, and we submit the following comments.

2. Brandt seeks to supplement his earlier request for the addition of an issue to determine whether Normandy Broadcasting Corp. ("Normandy"), licensee of Stations WYLR(FM) and WWSC(AM), engaged in misrepresentation when it certified in its WYLR(FM)

¹ The Petition to Modify and Enlarge Issues was filed on February 24, 1992. The request for a misrepresentation issue contained therein was opposed by the Bureau in Comments filed on March 19, 1992.

Noted/Decided
5/26/92

renewal application to its compliance with § 73.3526 of the Commission's Rules. Specifically, Brandt alleges that, contrary to Normandy's certification, for six calendar quarters Normandy placed no information in its public file pertaining to issue oriented programming broadcast over WYLR(FM), and during one quarter it placed no list in the public file at all.

3. In its originally filed Motion, Brandt provided copies of Normandy's programs/issues lists from 1987 through the first quarter of 1990. In its Supplement, Brandt provides a declaration of Sherrae J. Frasier, who states that she obtained the programs/issues lists from Normandy's offices in Glens Falls, New York, on June, 22, 1990. Frasier further states that she requested, and believes she received, all of the lists that were on file during the period in question. Brandt also submits a declaration of Normandy's President, Christopher Lynch, who, according to Brandt, does not dispute the claim that the lists obtained by Frasier constituted all the lists in existence during the period in question².

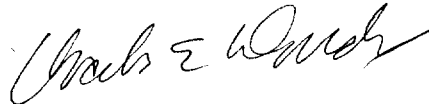
4. The Bureau has learned that, contrary to Brandt's assertions, Normandy did not certify in its renewal application that it had complied with § 73.3526 of the Commission's Rules. On the contrary, Normandy indicated otherwise, and provided an

² It is unclear whether Brandt's interpretation of Lynch's declaration is accurate. In his declaration, Lynch appears to suggest, at ¶ 2, that the lists obtained by Frasier constituted only "some" of the lists maintained by Normandy.

explanation at Exhibit 4. See attached copies of the pertinent portion of Normandy's renewal application. Thus, the premise for Brandt's requested misrepresentation issue, i.e., that Normandy lied in its renewal application, is incorrect. Whatever derelictions may have existed with respect to Normandy's public file, Normandy was candid in its statement to the Commission about the subject. Accordingly, a misrepresentation issue is not warranted.

5. Based on the foregoing, the Bureau opposes the requested addition of a misrepresentation issue against Normandy.

Respectfully submitted,
Roy J. Stewart
Chief, Mass Media Bureau



Charles E. Dziedzic
Chief, Hearing Branch



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April 14, 1992

For Commission Fee Use Only

FEE NO:

FEE TYPE:

FEE AMT:

ID SEQ:

For Applicant Fee Use Only

Is a fee submitted with this application?

☒ Yes ☐ No

If No, indicate reason therefor (check one box):

☐ Nonfeeable application

Fee Exempt (See 47 C.F.R. Section 1.1112)

☐ Noncommercial educational licensee☐ Governmental entity

For Commission Use Only:

File No.

910229UR

1. Name of Applicant

Normandy Broadcasting Corporation

Mailing Address

217 Dix Avenue

City

Glens Falls

State

NY

ZIP Code

12801

2. This application is for:

☐ AM ☐ FM ☐ TV

(a) Call Letters:

(b) Principal Community:

City

State

WYLR-FM

3. Attach as Exhibit No. _____ an identification of any FM booster or TV booster station for which renewal of license is also requested.

4. Have the following reports been filed with the Commission:

(a) The Broadcast Station Annual Employment Reports (FCC Form 395-B) as required by 47 C.F.R. Section 73.3612?

☐ Yes ☒ NoIf No, attach as Exhibit No. 1 an explanation.

(b) The applicant's Ownership Report (FCC Form 323 or 323-E) as required by 47 C.F.R. Section 73.3615?

☐ Yes ☒ No

If No, give the following information:

Date last ownership report was filed

1-23-91

Call letters of station for which it was filed WYLR-FMFCC 303-S
May 1988

FEB 26 1991

5. Is the applicant in compliance with the provisions of Section 310 of the Communications Act of 1934, as amended, relating to interests of aliens and foreign governments?

☒ Yes ☐ No

If No, attach as Exhibit No. _____ an explanation.

6. Since the filing of the applicant's last renewal application for this station or other major application, has an adverse finding been made or final action been taken by any court or administrative body with respect to the applicant or parties to the application in a civil or criminal proceeding, brought under the provisions of any law relating to the following: any felony; broadcast related antitrust or unfair competition; criminal fraud or fraud before another governmental unit; or discrimination? See exhibit 2

☐ Yes ☒ No

If Yes, attach as Exhibit No. _____ a full description of the persons and matters involved, including an identification of the court or administrative body and the proceeding (by dates and file numbers) and the disposition of the litigation.

7. Would a Commission grant of this application come within 47 C.F.R. Section 1.1307, such that it may have a significant environmental impact?

☐ Yes ☒ No

If Yes, attach as Exhibit No. _____ an Environmental Assessment required by 47 C.F.R. Section 1.1311.

If No, explain briefly why not. Exhibit 3

8. Has the applicant placed in its station's public inspection file at the appropriate times the documentation required by 47 C.F.R. Sections 73.3526 or 73.3527?

☐ Yes ☒ NoIf No, attach as Exhibit No. 4 a complete statement of explanation.

The APPLICANT hereby waives any claim to the use of any particular frequency or of the electromagnetic spectrum as against the regulatory power of the United States because of the previous use of the same, whether by license or otherwise, and requests an authorization in accordance with this application. (See Section 304 of the Communications Act of 1934, as amended.)

The APPLICANT acknowledges that all the statements made in this application and attached exhibits are considered material representations and that all the exhibits are a material part hereof and are incorporated herein as set out in full in the application.

CERTIFICATION: I certify that the statements in this application are true, complete, and correct to the best of my knowledge and belief, and are made in good faith.

Name

Christopher P. Lynch

Signature

Title

President and General Manager

Date

1-23-91

WILLFUL FALSE STATEMENTS MADE ON THIS FORM ARE PUNISHABLE BY FINE AND IMPRISONMENT. U.S. CODE, TITLE 18, SECTION 1001.